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ABSTRACT

This document includes a three-part set of Parent Briefs that focus on supplemental security income. The first Brief (published in March 2003)provides basic information on Supplemental Security Income (SSI), the federal income support program for people who have disabilities and limited income and resources. It identifies myths about SSI eligibility and discusses the use of SSI as young people make the transition from school to work and the advantages of receiving financial support for basic living expenses and being eligible for Medicaid. The second Brief, "So You Have Decided to Apply," (published in April 2003) provides information on adult eligibility guidelines of income (less than $800 per month) and resources (less than $2,000) and provides a guide to the application process. The decision making process of the Disability Determination Service (DDS) is explained, noting criteria concerned with the severity of the impairment, the impairment's equivalence to a "listed impairment," the applicant's work and earnings history, and the applicant's ability to do any other kind of work. Topics addressed in the last Brief, "Your Right To Appeal," (published in September 2003) include: if you were denied SSI; some of the common reasons for denial; applying for benefits; the four levels of the SSI Appeals Process; sample situations; related resources available online; how decisions are made; and choosing someone to represent you in the Appeals Process. (DB)

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Supplemental Security Income

Part 1: A Bridge to Work
[and]
Part 2: So You Have Decided To Apply
[and]
Part 3: Your Right To Appeal

Parent Briefs

Marge Goldberg and Judith Moses

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ParentBrief

Promoting effective parent involvement in secondary education and transition.

March 2003

Supplemental Security Income (SSI) Program

Part 1 of 3

Supplemental Security Income: A Bridge to Work

This is the first in a series of three Parent Briefs addressing Supplemental Security Income. All three are available from NCSET.

Myths about SSI

Many people who are eligible for SSI do not benefit from the program because they have heard things about the program that are not true.

Some myths about SSI may have discouraged them from applying in the first place. Other myths discourage people from seeking employment or taking a job because they are afraid of losing their benefits. Here are some myths about SSI that may discourage youth and young adults from applying for benefits or from taking a job if they are receiving SSI:

- People who work are not eligible for SSI.
- People who go to work will lose SSI cash benefits.
- People who go to work will lose Medicaid.
- SSI benefits will stop if a person goes into a training program, such as a vocational or university program.

These statements are *not* always true!

Information in this Parent Brief is meant to help people with disabilities dispel these myths and to find out if the SSI program is for them. SSI is a complex program that serves many different individuals. This information is written specifically for people with disabilities who:

- . . . are 18 years and older;
- . . . are single;
- . . . pay rent or contribute to the living expenses at home or who live away from the family home;
- . . . are either in or out of school; and
- . . . have disabilities other than blindness.

If you are a young adult with a disability and have not applied for Supplemental Security Income (SSI), WHY NOT?

The Social Security Administration defines disability as a physical and or mental impairment that prevents an individual from doing substantial gainful work activity and is likely to last more than 12 months or result in death. For SSI purposes, the individual must not be able to engage in any kind of substantial gainful work which exists in the national economy regardless of whether jobs are available locally, accessible to individual's with disabilities, or the individuals desire to have the job.

This publication is a collaborative effort of the National Center on Secondary Education and Transition (NCSET) and PACER Center.

What is SSI?

Who is eligible to receive SSI?

In general, you are likely to be eligible for SSI if you meet both disability and financial criteria.

- **Disability Criteria: This means that you must be a person with a physical or mental disability. You are unable to perform Substantial Gainful Activity (SGA) because of that condition and that condition is expected to last at least 12 months or result in death.**

- **Financial Criteria: There are two types of financial assets that are considered when you apply for SSI:**

— Income: You are either not working or you are working but earning less than $800 gross (as of 2003) a month when you apply. $800 is the SGA amount as of 2003 or earnings from a job, that a person may have and still be eligible for SSI. Disability work-related expenses are deducted when figuring this amount for SGA as well as for eligibility and payment purposes. In addition to any earnings, any other income, such as gifts, Social Security benefits, unemployment benefits referred to as unearned income, are also considered. If you are under 18 and living with your parents, their income will be considered available to you as income for SSI purposes.

— Resources: The money you have in the bank and other assets must be under $2,000 (excluding house and car if used to obtain medical care or work).

SSI stands for Supplemental Security Income and is one of the most important federal programs for people with disabilities. SSI is an income support program and provides monthly payments to persons who have disabilities and have limited income and resources. It is not necessary to have worked to be eligible for SSI. You can be considered for SSI regardless of your age, and whether or not you are single or married.

SSI may be used as a financial support for you during periods that you are able to work only minimum hours or are in the process of finding employment. SSI benefits can also be received while in vocational training or attending post-secondary institutions. Almost everyone who receives SSI is also eligible to have health care coverage through Medicaid.

While you receive SSI, you will have the opportunity to learn job skills and develop knowledge of the workplace. Your parents and service providers will realize that you are able to work and can help you plan and resolve work related issues for the future. SSI rules also allow you to take deductions for the cost of special work related expenses connected to your disability while working, training for a job, or attending postsecondary institutions.

This brief is meant to help you review all aspects of SSI as you begin to make the transition from school to work and life in the community.

What are the Benefits of Being on SSI?

There are two main advantages to being on SSI as a young adult. First, SSI can provide financial income up to $552 a month for eligible single people in 2003. This is financial support that can help pay basic living expenses. It can also be especially helpful . . .

. . . While making the transition from school to work;

. . . During periods of training or attending postsecondary school; and

. . . While working at low-paying or part-time employment.

A second major benefit of SSI is that qualifying for SSI usually allows you to apply for and receive Medicaid (called Medical Assistance in some states), which can pay health care expenses such as doctors appointments, therapy, and prescription drugs.

Financial Work Incentives

Formula for calculating SSI benefits

The order of exclusion is important as it can influence the payment amount. From gross earned income, subtract:

1. $20.00 General income exclusion.
2. $65.00 Earned income exclusion.
3. Divide the remaining amount in half.

The balance is SSI countable income and is subtracted from the full monthly SSI benefit a person would receive if not working.

Financial Work Incentives 1619a

Once established as a SSI recipient, you may mistakenly feel that you are risking financial support if you seek and find employment. Losing financial support is usually a myth. Work incentives may allow you to receive a paycheck and still keep part of your SSI cash and retain Medicaid benefits. For every two dollars earned, one dollar is deducted from SSI's payment. This is calculated after the general income exclusion of $20 per month and the earned income exclusion of $65 per month are deducted. (Impairment related work expenses [IRWE] can also be deducted if applicable and will be described later). Financially this results in significantly more income for you than being only on SSI and not working or working and not receiving SSI (see Example 1).

In Minnesota, for example, if an individual receives the maximum SSI benefit rate of $552.00 (2003) when he or she begins to work, the break-even point will occur at $1189 per month. The break-even point is where SSI payments reach zero (see Example 2). Medicaid may still be received through health work incentives.

Example 1:

$420.00	Gross income (earned through competitive or supported employment)
-20.00	General income exclusion (unearned income, such as bank interest, is deducted from the $20 exclusion)
400.00	
-65.00	Earned income exclusion
$335.00	
$335.00	Divide this amount by 2
2	1/2 of income is deducted after exclusions
=167.50	SSI countable income
$552.00	SSI Federal monthly benefit rate, 2003
-167.50	SSI countable income
384.50	Adjusted SSI payment
+420.00	Earned gross income
$804.50	Total gross earnings

Differences in Monthly Income

SSI & Not Working	Working & Not Receiving SSI	SSI + Work
$552.00	$420.00	$804.50

Example 2:

$1189.00	Gross income
-85.00	General and Earned Income Exclusion *($65 +$20 = $85)*
$1104.00	
$1104.00	Divide this amount by 2
2	One-half of income is deducted after exclusions
÷	
= **552.00**	SSI countable income
$ 552.00	SSI Federal monthly benefit rate, 2003
-552.00	SSI countable income
0.00	SSI payment
+1189.00	Earned gross income
$1189.00	Total gross earnings

SSI Health Work Incentive 1619b

Health coverage is critical for young adults with disabilities. Many individuals have medical needs that are covered by Medicaid but do not have access to other health insurance coverage that would provide the same coverage. Part-time jobs and entry level positions rarely include medical benefits, and health insurance coverage through a parent usually ends when the dependent reaches age 22. The fear of losing Medicaid coverage may cause you to be reluctant to seriously consider employment.

SSI allows you to keep your Medicaid benefits while working until your earnings reach the state's threshold level ($31,389 per year in 2003 for Minnesota). The threshold is determined separately for each state. To stay eligible under 1619b the coverage must be needed to allow you to continue working, and you must remain disabled and meet all other requirements such as not having assets above the limit of $2,000. Once the threshold level is reached, a review determines whether you are making enough money to purchase your own health insurance.

Resources . . . When an individual turns age 18, the parent's income and resources are no longer considered in determining the individual's eligibility. Resources are things that an individual owns. In order for an individual to qualify for SSI, his or her resources must be under $2,000.

Some of the resources that are counted are savings and checking accounts, stocks and bonds, and life insurance. Resources that are not counted include a home, personal belongings, car or van if required for transportation to work or for medical treatment.

Impairment Related Work Expenses (IRWE)

Impairment Related Work Expenses (IRWE) are services or items that you personally pay for and are not reimbursed for by any other source. These are services directly related to your disability and to enabling you to work. Filing an IRWE, when applicable, helps you retain more money because when you calculate earnings, the costs of these services or items are deducted. **(When calculating your earnings, the IRWE is deducted *after* substracting the general income exclusion ($20) and earned income exclusion ($65), and *before* dividing remaining income amount in half to determine SSI countable income.)** Impairment related work expenses may include:

- **Attendant** care services performed in the work setting, or in preparation for work or returning home from work.
- **Transportation** costs required by the disability, and structural or operational modifications made to a vehicle needed for work.
- **Medical** devices such as wheelchairs, pacemakers, or respirators.

So, if you aren't on SSI—WHY NOT?

- **Work-related** equipment such as typing aids, reading aids, telecommunications devices, or special work tools.
- **Assistants** such as interpreters, job coaches, or readers.
- **Prostheses** such as artificial replacement of an arm, hip or other parts of the body for other than a cosmetic purpose.
- **Residential** modifications such as railings, ramps, or pathways that permit access to the street or to transportation.
- **Routine** drugs and medical services such as regularly prescribed medical treatment or therapy that controls a disabling condition. Included are radiation treatments, antidepressant medication, anticonvulsant drugs, and physicians' fees related to these services.

SSI dollar amounts vary by year and living arrangements. In certain situations, the state may supplement these amounts. Additional information on SSI for persons with disabilities who are younger than 18, married, living at home, or blind can be obtained from your local Social Security Office. For the telephone number of your local office, call: **1-800-772-1213.**

Substantial Gainful Activity . . .

Substantial gainful activity (SGA) is average countable earnings of $800.00 or more per month. SSI will deduct from a person's gross earnings, the cost of items required because of a disability that enable a person to work and/or the value of support a person needs on the job. Generally, average countable monthly wages of less than $800.00 per month in 2003 is considered less than substantial.

Once the individual is on SSI, SGA (or work) does not affect continuing eligibility. The individual's earned income may exceed the SGA level ($800) and both SSI cash benefits and medical benefits can be received. Under SSI, SGA is used only in determining initial eligibility for disability payments.

Here are some other work incentive options available under the Social Security System:

- ❑ **Plan for Achieving Self-Support (PASS)** is a program where the money you use to purchase equipment, services, training or education needed to get a job or start a business may be excluded from income or resources. An individual must have a reasonable occupational goal and a plan approved by SSI.
- ❑ **Property Essential to Self-Support (PESS)** is a program where property which is used by a person for work, such as tools or equipment, can be excluded from the $2,000 asset limitation.
- ❑ **The Student Earned Income Exclusion** is a program where young adults under the age of 22 and attending school may exclude $1340 a month in 2003 but not more than $5410 of earned income in 2003.

To apply for SSI call: 1-800-772-1213
SSA Web site: www.ssa.gov/work
SSA Handbook: www.ssa.gov/OP_home/handbook/ssa-hbk.htm

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IDEAs that Work
U.S. Office of Special Education Programs

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Access Parent Briefs and other NCSET materials on-line at: *www.ncset.org*.

NCSET works to increase the capacity of national, state and local agencies and organizations to improve secondary education and transition results for youth with disabilities and their families. NCSET is headquartered at the University of Minnesota, and is a partnership of six organizations, including PACER Center. NCSET:

- Coordinates national resources that connect policymakers, administrators, professionals, educators, employers, parents, and youth with disabilities to information and useful resources;
- Hosts capacity building institutes and workshops, national summits, national teleconference calls, and additional training opportunities;
- Develops research-to-practice tools for everyday use; and
- Provides technical assistance and outreach.

PACER works with NCSET to represent family perspectives and disseminate information to a national network of federally funded parent centers and the families they serve.

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ParentBrief

Promoting effective parent involvement in secondary education and transition.

April 2003

Supplemental Security Income (SSI) Program

Part 2 of 3

Supplemental Security Income: So You Have Decided to Apply

This is the second in a series of three Parent Briefs addressing Supplemental Security Income. All three are available from NCSET.

Introduction

Supplemental Security Income (SSI) is a federal income support program administered by the Social Security Administration (SSA) that serves many different individuals. SSI provides monthly cash assistance to persons who have disabilities and limited income and resources. The following information on the SSI program is written specifically for people with disabilities who are 18 years and older, single, pay rent or contribute to the living expenses at home or who live away from the family home, are either in or out of school, and have disabilities other than blindness.

To be eligible for SSI benefits both disability and financial criteria must be met. The disability must be a medically determined mental and/or physical condition that is expected to last for a year or longer. Financial criteria include earned income (wages) and resource assets (bank accounts and other fluid assets, but not your home or automobile, if used for medical appointments or work).

When you apply for SSI benefits your earned income must be at or below $800 (2002) gross per month, the Substantial Gainful Activity (SGA) level that SSA has established. At the time you apply, your resources must be under $2,000 and must never go over that amount while on SSI. For more specific information on eligibility criteria contact the Social Security Administration office at 1-800-772-1213.

If you believe you meet these criteria you may be eligible for SSI. This brief is meant to help you apply.

Step One: Making an Appointment

Your first step is to telephone SSA's toll free number—1-800-772-1213—or your local SSA office to make an appointment. SSA generally recommends you call the 800 number. This number is available from 7 a.m. to 7 p.m. CST each business day. The best times to call are before 9:00 a.m. or after 4:00 p.m. At this number a taped message will ask you to select among information options. You may stay on the line without selecting any options and a service representative will eventually come on the line. If you press *6* and then *1*, you will reach a representative. Pressing *5* will provide you with the location of your local service office.

Whether you call the local or the federal number you may have to wait to talk to a representative. It might be helpful to make the call when you have plenty of time and are in a comfortable place. Your name, address and social security number will be requested during the call. The representative you speak with will arrange either a phone or an in-person appointment at a time that works for you and your local SSA office. The representative uses a computerized calendar to display the next available appointment times at your local SSA office.

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Applying for Benefits

After the phone call, an application packet may be mailed directly to you from the federal office. You may either complete the application before your appointment, or you may fill it out during your appointment with the assistance of the SSA representative. The representative can assist you with questions that you have and can also assist you in the process of obtaining medical and other relevant documents needed to meet eligibility requirements. However, the more information you fill out in advance the more efficient the process will be.

Anyone may apply. There is no application fee. The original date of your call will be used as your application date. If you are deemed eligible, benefits are retroactive. It is to your advantage to apply as soon as you think you may qualify for benefits.

Step Two: Applying for Benefits

If you are applying over the phone, your local SSA representative will call you at the appointed time. You have the option of using a family member or an advocate to represent you on this call. Another option is to have a conference call arranged between you the applicant, a family member and/or an advocate and the SSA representative. This is an opportunity for you to ask a variety of simple or complicated questions. The SSA representative can access your work history and other relevant program information on the computer screen. Therefore, the representative can give you the same information over the phone that would be given to you if you were there in person. The intake may take an hour or longer depending on your questions and the information you have readily available.

The application may also be done in person at your SSA office. This might be a better option if you feel more comfortable communicating in person. Remember you may still bring a family member and/or an advocate with you. If you decide to apply in person, be aware that the SSA office is a busy place, carrying out many functions and serving a diverse group of consumers. So, even with a scheduled appointment, there is likely to be a wait. Since SSA is a federal office, all consumers will need to pass through a metal detector security device similar to those at airports.

If you are hospitalized or confined to your home, the SSA representative may come to you. In some areas of the country representatives come to the high schools and assist students and their families in applying during transition planning.

Gathering Your Documentation

The more documentation you have available in advance, the more efficient the application process. Some of the suggested information to collect in advance to complete your application may include:

- Social security card.
- Proof of age, generally your birth certificate.
- Proof of income, paycheck stubs or copies of payments received.
- Proof of resources, generally any bank accounts, life insurance, cash etc.
- Proof of living arrangements, rent or mortgage payments.
- Names, addresses and telephone numbers of doctors, hospitals and clinics.
- Information from teachers or employers may be important to show work limitations due to disability.

Documenting Your Disability

After helping you complete your application form, the SSA office will review it to determine if you are financially eligible to receive SSI benefits (unemployed or working and earning less than $800 per month and resources under $2,000). Once SSA has established that you are financially eligible and they have all of your supporting documentation, including you medical history, they will send your completed application to the Disability Determination Service (DDS). This is where your application and medical records will be evaluated for eligibility on the basis of your disability.

Who is the Disability Determination Service (DDS)?

The DDS is separate from SSA. The DDS consists of a trained team, including a doctor and a DDS disability examiner. This team reviews all the forms, medical records, information about how the applicant is functioning, and, if applicable, work history. Some of the things considered are; what is wrong, when it began, how the condition limits activities, what the medical tests show, and what treatments were given. The decision is then made on whether the applicant is disabled for SSI purposes. If the DDS cannot make a decision based on the information they have, they will pay for an examination to be done by a SSA consulting physician.

Step Three: Determining Your Eligibility on the Basis of Disability

The Disability Determination Service determines whether you qualify for benefits based on your disability(ies). The following questions are addressed by the DDS to make this determination.

A. Do you have a severe impairment?
A severe impairment is one that significantly limits your ability to do basic work activities. Some examples of basic work activities include:

- Physical functions such as standing, walking, sitting, lifting, seeing, hearing, speaking
- Understanding and carrying out simple instructions.
- Use of judgement.
- Responding appropriately to supervision and coworkers.
- Dealing with changes.

Decision Points Used for *Initial* Eligibility ONLY

- Able to make SGA (over $800 / month) ***Not Eligible***
- Able to transfer skills to a different job and make SGA ***Not Eligible***
- Not able to make SGA at any job ***Eligible***

B. Do you have an impairment that meets or equals a social security "listed impairment?"
SSA maintains a list of specific impairments such as musculoskeletal, respiratory, cardiovascular, and neurological. If your disability meets the requirements of a listed impairment, the process ends here and you will be found disabled for SSI purposes. If your disability is not listed, DDS considers whether your impairment is of a severity equal to a listed impairment. If so, you will be found disabled for SSI purposes.

SSA's criteria for specific impairments can be found in their Blue Book: *Disability Evaluation Under Social Security*. This book can be requested by Parent Training and Information Centers in your state and disability and advocate organizations. It is also available on SSA's web site: http://www.ssa.gov/. If your disability does not meet or equal a listed impairment, DDS makes an individual determination using questions *C* and *D*.

C. Were you able to work in the past AND did you earn over SGA ($800 per month)? If in the past you were working and making over $800 per month and you are still able to do that work and earn over $800 per month, you will be found not disabled for SSI purposes. If you are not able to do past work at the SGA level when you apply, *D* is considered.

D. Can you do any other kind of work? DDS will consider your age, education and work experience. If the DDS finds that you can do some other type of work at over the SGA level you will be considered not disabled for SSI purposes.

As a person with disabilities, throughout your school years and work history (if any) you have probably been guided to always look at your strengths and abilities and to not dwell on your limitations or disabilities.

For SSA purposes it is important that all your physical and/or mental disabilities are addressed and communicated accurately for this to be a valid assessment of your work limitations. You and your family member or advocate must realistically look at your current situation in order to communicate your needs in the SSI application process. After years of emphasizing the positive, this may be difficult to do. But without addressing your disability and all limitations directly and honestly you will not communicate your need for SSI.

Frequently, applications are denied because physicians and other service providers give incomplete information on an individual's disability or fail to specify how the individual's disability interferes with work. This can occur when physicians and other service providers are unsure of what type of information is required. Determine which people in your life have a good understanding of your disability and the ways it may affect your employment. If you are still in school this may be a special education teacher, counselor or psychologist that knows you well or other individuals on your transition team.

Whether you are in school or out of school, a vocational rehabilitation counselor or county case manager are also people who can be helpful in the application process. It is a good idea to contact your medical specialist(s) and other service providers in advance to tell them that you are in the process of applying for SSI benefits and that they will be contacted to provide supporting documentation. The supporting documentation needs to be explicit on how your disability impacts your ability to do substantial work.

Be sure that your physician is familiar with your specific limitations and any behaviors that interfere with school or work. Some examples could be the number of seizures you have per day, specific difficulties you have under stress, physical or stamina limitations, or side effects of required medications. Your physician may not necessarily be aware of these limitations or remember them when filling out the required documentation. Describing your disability in work-related terms is valuable and you can use that information not only for the SSI application process, but later when you start to work, or increase your work hours, or change jobs.

Step Four: If DDS Cannot Make a Disability Determination

When the DDS team cannot make a decision based on the information provided, you will be referred to an SSA consulting physician for an additional medical examination. Both general and specific information will be requested from the physician regarding your physical or mental impairment.

What If DDS Cannot Make a Determination

Specific information may include . . .

. . . For Adults with Physical Impairments

The consulting physician will be asked to make a statement regarding what work-related functions you can perform despite your existing physical limitations. SSA asks the physician to describe your ability to work in objective terms. Issues that will likely be addressed are:

- The number of pounds you are able to lift frequently, occasionally, at or above shoulder height.
- The number of hours in an 8 hour work day you can stand/walk/sit.
- How frequently and how well you can bend, push, pull, and/or operate hand/foot controls.
- Your ability to work at heights and/or around dangerous machinery.
- Your ability to carry or handle objects.
- Your ability to see, hear, speak.
- Your balance, coordination, and fine motor dexterity.

. . . For Adults with Mental Impairments

The consulting physician will be asked to make a statement regarding what work-related functions you can perform. Issues likely to be addressed may include comments regarding your mental abilities to:

- Concentrate on and understand instructions.
- Carry out tasks with reasonable persistence and pace.
- Respond appropriately to coworkers and supervisors.
- Tolerate stresses in the work place.

This is a consultative examination only. For both physical and mental impairments no treatment will be administered, or medications prescribed. The physician will not make a statement as to whether you are totally disabled or unable to work. This is a judgment made by DDS.

The basic assumption behind SSI benefits is that there is a link between disability and ability to do substantial work. Qualifying for disability benefits depends upon that link being established. For initial eligibility DDS separates individuals into two groups, those who can meet SGA and those who cannot meet SGA. These are judgement calls and they may be wrong. This is not always an easy or reliable way to determine eligibility for disability benefits. The medical condition and the vocational potential may not always demonstrate whether the individual can or cannot do a substantial amount of work.

If you are denied SSI benefits and you still believe that you are eligible, you are not alone. The DDS report for Minnesota states that 60% of the original applications are denied. Many of these initial denials are overturned when appealed. Reconsideration is the first level of appeal. The reversal rate at this level is approximately 14%. When denials are appealed at the next level, which is before an Administrative Law Judge, the reversal rate is 60%.

If you are denied but still believe that you are eligible for SSI benefits, it is important to appeal the decision. Information on how to appeal can be received directly from SSA or in the next Parent Brief in this series, "Your Right to Appeal."

Applying for SSI is not that difficult. The application forms look more complicated than they really are. Help is available in this application process from SSA and from advocacy organizations.

If you are not working because of your disability, or if your disability substantially limits your work ability — look into SSI.

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National Center on Secondary Education and Transition (NCSET)

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Parent Brief

Promoting effective parent involvement in secondary education and transition.

September 2003

Supplemental Security Income (SSI) Program

Part 3 of 3

This is the third in a series of three Parent Briefs addressing Supplemental Security Income. The first is titled SSI: A Bridge to Work; *the second,* So You Have Decided to Apply. *All three are available from the National Center on Secondary Education and Transition.*

Supplemental Security Income: Your Right to Appeal

The following information about Supplemental Security Income (SSI) appeals was written for young adults with disabilities, parents, and/or advocates.

If You Were Denied SSI

Many people are denied SSI benefits when they first apply. Disability Determination Services reports that, nationally, 62% of the original applications are denied. Some of the initial denials are overturned through the appeals process. Four levels of appeals are available:

- Reconsideration is the first level of appeal. Your file will be sent back to the Disability Determination Services in your state. The information in your file will be looked at by a new adjudicator(s). Approximately 14% of the appealed cases are overturned, and benefits are allowed.
- A hearing before an administrative law judge (ALJ) is the second level of appeal. At this level of review approximately 60% of the cases are overturned and benefits allowed.
- A review by the Appeals Council is the third level of appeal. Of the 40% of appealed cases that are not overturned at the hearing level, only 18% appeal at this third level. At this level, the Appeals Council will carefully review the case or return it to the same or a different ALJ for further action,which could include another hearing and a new decision. About 27% of the cases appealed at this level are sent back to the second level for further action.
- Federal Court action is the fourth appeal. Because this appeal is costly, appeals are rarely pursued at this level.

Most people who appeal are granted reversals at the first and second levels of appeal. Before appealing, make sure that the basic financial eligibility requirements are met. If financial eligibility is met and the disability limits or restricts the ability to work, it is advantageous to appeal. As the above statistics indicate, a new decision at appeal levels 1-3 can result in a favorable decision.

What Are Some of the Common Reasons for Denial?

The application forms are lengthy and call for many details. If the application sent to Disability Determination Services (DDS) was incomplete, it is likely to be denied. If this is the case,

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the appeals process allows applicants the opportunity to provide more detailed information. Some common reasons for denial include:

The information was not complete: The Social Security Administration (SSA) will request information about your limitations and restrictions due to a disability from doctors and other people who are familiar with the applicant. SSA needs all of your doctors' names, addresses, and telephone numbers as well as the contact information from other people who know about your disability and limitations. These may include teachers, job coaches, employers, and friends.

SSA does request a detailed description of your day-to-day activities. This should stress how your disability limits and restricts your ability to work. It is important for the people sending information to SSA or DDS to understand the need to provide information that describes your limitations or restrictions for work and not focus on your strengths. Have someone review your application to make sure it is complete.

The doctors' information was not specific to the disability and work limitations: Your doctor must provide specific information about your disability and how it limits the ability to participate in the workplace.

The information about work experience did not adequately describe the limitations in performing work tasks: DDS will need a detailed description of all the equipment, assistive technology, services, supports, and accommodations you use, as well as detailed information specifying the ways that your disability affects your ability to perform tasks at work.

Later sections of this brief will provide specific examples to illustrate some of the reasons for denial. It will also outline how the appeals process can help individuals obtain a favorable decision from SSA/DDS.

Provide Complete Information About Your Disability

The information submitted to SSA/DDS should include a clear description of the disability and functional limitations. Some examples include:

- If you have a physical, neurological, or sensory disability, document information such as:
- seizure length and frequency, limitations in mobility, balance, vision, hearing, fatigue, chronic pain, and reduced stamina.
- If you have a cognitive disability, document information such as: difficulty focusing, carrying out tasks independently, understanding directions, reading, writing, spelling, calculating, making good judgments, and memory.
- If you have an emotional disability, document information such as: mood swings, anxiety attacks, comprehension, and articulation.
- If you have a communication disorder, document information such as: limitations in speech, comprehension, and articulation.

If the information on an application is incomplete, SSA may contact you to obtain the needed information.

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The SSI Appeals Process

If you receive a letter from SSA denying your application, you may appeal that decision. You must respond within 65 days from the date on the letter, or 60 days from the date you actually received the letter. If the letter was forwarded to you, or in some other way delayed so you are unable to respond within 65 days of the letter's date, you can still file an appeal, but you may be required to verify when you actually received the letter. Directions on how to appeal will be included with the notification. Your first step is to state in writing that you plan to appeal the decision and to mail that statement to the address on the denial letter.

At each level of appeal you should request a copy of your file and review all information to understand why the denial was made. Request that information as soon as possible, and check to see if it is complete and accurate. You may submit any additional information on your disability at any level of the appeals process. You can also have someone represent you at all levels of appeal.

1st Level—Reconsideration

Within 60 days of receiving SSA's initial denial, a written request for reconsideration must be sent. All of the documentation will be reevaluated by a disability examiner who was not part of the initial determination.

At this level the reversal rate is 14% (about one in seven appeals are granted). SSA will send written notification of the reconsideration decision. The reconsideration level must take place prior to a hearing before an ALJ, except in prototype states where the claimant goes straight to the hearing before the ALJ. (SSA has eliminated the reconsideration step in 10 "prototype states"—Alabama, Arkansas, California, Colorado, Louisiana, Michigan, Missouri, New Hampshire, New York, and Pennsylvania—to see if this improves the application process.)

2nd Level—The Hearing

If the reconsideration is denied and you wish to appeal, the next step is the hearing before an ALJ. A hearing must be requested within 60 days of receiving the denial. It is important to attend the hearing unless a written statement is provided to explain why a person cannot attend. If that occurs, a judge will make a decision based on the information from the reconsideration level and any new information that may have been provided.

It may take from three months to a year to have a hearing. Each person will receive a date, time, and place. This hearing can be postponed due to illness, transportation, or availability of witnesses.

Anyone can bring an advocate, witnesses, family members, or have a representative such as an attorney at the hearing. A witness can be a co-worker, physician, or anyone who can explain the effect of the disability on work. Before the hearing, make sure that all medical records are complete.

The SSI Appeals Process (cont.)

Other people at the hearing will include the court reporter who will record the proceedings, and medical or vocational experts if the judge requests their help in making a fair decision. There is no jury or spectators. There is no attorney for SSA and therefore no cross-examination. The hearing usually lasts about one hour and a written notice of the decision will be sent within eight weeks. This level has a reversal rate of approximately 60% (three out of five appeals are granted).

3rd Level—Appeals Council Review

If the appeal is denied at both the reconsideration and hearing levels, there is another level of appeal. This is a request for a review by the Appeals Council. A request must be submitted within 60 days from the date of the hearing denial. Of those reviewed by the Appeals Council, 27% are sent back to level 2 to be reheard.

The role of the Appeals Council is to review the ALJ's decision. No one besides council members are present at this level. The council will review documentation and the judge's decision and either make a decision or send it back to the ALJ for a second hearing. This could mean that a different judge would hear the appeal. A written statement will be sent regarding how the appeal will be handled.

4th Level—Federal Court Action

If the appeal was again denied, a lawsuit with a Federal District Court can be filed within 60 days. It is important to have an attorney at this level of appeal. The Federal Court will review all the information provided and make a decision without any future hearings. It is also possible to bring an appeal to the Supreme Court. This level of appeal is very costly and rarely done.

Why Appeal?

It is advantageous to pursue the appeals process if an application is denied. The process has benefited many people who have been denied. It is also important to understand that even if an application and appeal are denied, anyone can reapply for SSI at any time in the future if the SSI income and disability eligibility requirements are met.

Remember, if your SSI application is denied, you have a right to appeal. The process is set up to protect you—USE IT.

Example 1: Additional Information Needed

Chad had done some assembly of paper products while still in school. He found the part-time work enjoyable and liked earning his own spending money. Since he was good with his hands, the work coordinator at his school suggested that assembly work would be a good place to start when he graduated from high school. Chad was hired as a full-time worker at a local manufacturer a short distance from home.

SSA arranged a medical consultation for Chad to provide more information on his disability. Because of this, he received a favorable decision from SSA and did not have to go through the appeals process.

He was not on the job long before his supervisor took him aside and warned him about his late arrivals and lack of attention on the job. Chad said he would try harder. However, he continued to have trouble getting to work on time and found it hard to focus. Often his mind would wander while waiting for the bus. He would not see the bus go by, or he would ride past his bus stop and fail to get off for work or home. He did not participate with co-workers during break periods or keep up with old friends. When in a group, Chad sat to the side and faced away from the activity. At his supervisor's request, Chad consulted with his family doctor, Dr. Stevens.

Dr. Stevens noted Chad's withdrawal and anxiety but did not relate this to Chad's difficulty at work or diagnose this as depression. He believed a depression or mental illness label might discourage and depress Chad even more. Instead, Dr. Stevens urged Chad to go out with friends and join groups that share his interests. He believed Chad could break out of his depression by finding more enjoyable activities.

Chad received three warnings from his supervisor because of tardiness, absences, and poor attention to details. After each warning, Chad would improve for a few days but lacked the ability to sustain the improvement. Chad's problems kept expanding in his mind, and he became totally engrossed in his problems. His supervisor again took him aside and stated he had no choice but to terminate him.

At home, Chad stayed in his bedroom, seldom dressing, bathing, or coming out to eat. His parents could not cheer him up. They were worried and knew Chad's problems were more than losing his job. They feared that his current emotional state would interfere with any future employment opportunities. Because of this, they believed Chad could qualify for SSI.

Chad's parents helped him apply for SSI. The SSA requested medical reports from Dr. Stevens. Soon after, Chad received notice from SSA explaining that they did not have complete medical information concerning his disability and how it interfered with his ability to work. At SSA's expense, a consultative examination (CE) was scheduled with a psychiatrist, Dr. Forest. SSA requests a CE only when there is insufficient evidence to decide a claim. It is very important that you go to a CE. If you do not go, the claim may be denied due to insufficient evidence.

Providing more information can avoid the appeals process.

Example 1: Additional Information (cont.)

Chad's parents accompanied him to the scheduled appointment and participated in the meeting. It was difficult for Chad to articulate his feelings to the doctor. He told Dr. Forest that he saw no point in living. His parents added some details about Chad's difficulties in keeping a job and his behavior at home and at work. Dr. Forest said that he would submit his report to SSA.

Three months later Chad learned that he was eligible for SSI. With additional medical information provided by Dr. Forest, Chad's application for SSI benefits was approved, and he did not have to start the appeals process.

In the meantime, Chad saw a private psychiatrist who diagnosed him with severe depression and began a treatment plan. During the period when Chad could not work because of his disability, SSI benefits provided him with some financial security and medical treatment for his depression (Medicaid). When Chad returned to work almost two years later, his financial benefits from SSA were reduced. He continued to receive the Medicaid, necessary to pay for his prescription drugs, as well as therapy appointments and other medical needs. His family supported him during reoccurring periods of depression. Chad also developed strategies for keeping his job by requesting accommodations from his supervisor, such as flexibility in work hours and a leave of absence when necessary.

Describe How Your Disability Affects Employment and the Supports Required to Maintain Employment

Current transition programs provide many supports to enable students with disabilities to work and have positive learning experiences, as well as develop good career goals. Reports from teachers, work-experience counselors, employers, and parents usually emphasize the individual's strengths without describing any of the limitations and supports utilized. Information on all assistance being provided to a person with a disability and the employer should be noted on the SSI application. If there are built-in supports or job coaches providing services on a regular basis, those services need to be listed in detail, such as: interpreters, assistive technology, flexible hours, work-behavior guidance, co-worker and/or employer support, limited duties, rest periods, special transportation, adapted equipment and devices, alternative communication methods, and others. See Example 2 (next page) and Example 3 (page 9).

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Example 2: Reconsideration

Example 2: Reconsideration

Illustrated below is a situation where the applicant, Kara, was denied SSI benefits when she first applied. She and her parents notified SSA of their intent to appeal. They submitted additional information on how her disabilities affect her ability to work and on the supports she needs to succeed in the workplace. With this new information, Kara received a favorable determination.

During Kara's school transition program, when she was 17, she had the opportunity to work at a fast-food restaurant. She could perform preparatory duties such as mixing coleslaw, dispensing foods into appropriate containers, and labeling the containers. Kara voluntarily assisted her co-workers when they fell behind by cleaning up and sanitizing areas. She was good at helping out when things got busy and liked to keep the work areas clean.

The reversal rate at the reconsideration level is approximately 14%.

Kara had a brain injury that affected her speech, learning, and balance. Her speech was not easily understood. She could walk for short distances despite an uneven gait. She had short-term memory problems that made it difficult for her to follow a series of instructions. Kara was afraid of the stove and could not carry or lift heavy things. The manager of the fast-food restaurant was familiar with disability issues and worked with Kara's job coach. He structured Kara's work activities, simplified instructions, and used pictures on index cards to remind her of task order. Kara's co-workers also helped. They noticed when Kara needed assistance, and frequently joked and talked to her as they learned to understand her speech.

Six months later the manager was transferred. The new manager liked Kara but could not understand her speech. He was concerned about her balance and feared she might hurt herself by bumping into something hot. If he felt she was too close to the stove, he would physically move Kara by taking her by the shoulders. Kara was uncomfortable with the physical intervention and started to fear his presence. She became withdrawn at work and stopped interacting with her co-workers. Kara sensed her supervisor's disapproval of her work, and this increased her anxiety, making it even more difficult for her to talk.

The manager attempted to communicate with Kara about her performance, but Kara started to cry when he interrupted her reply. She pushed a tray of prepared food to the floor and retreated to the storage room. Her job coach tried to resolve the misunderstanding between the manager and Kara, but Kara refused to return to work.

Kara had not been on SSI as a child because her parent's income was too high. Now that she was almost 18, her parents decided to fill out the application on her behalf.

Example 2: Reconsideration (cont.)

Kara's doctor described her range of motion as "better than might be expected" for her disability. He noted limitations for work regarding lifting and heights, but did not describe additional difficulties she might experience if employed. He alluded to her communication problems, but because he had known her for many years and understood her adequately, he did not go into any detail. **Kara's application was denied because it did not contain adequate information about how her disability affected her ability to work.**

After the denial, Kara's parents decided to appeal for **reconsideration.** They submitted additional information from their observations of Kara concerning her communication difficulties and behaviors, such as tantrums and crying when she was feeling stressed. They included information on her short-term memory loss which made it difficult for her to follow oral or written directions. Her parents also contacted Kara's job coach. He wrote up the supports Kara needed at work and explained her difficulties in staying motivated on a job without structured, positive reinforcement from her employer. Since Kara was planning to remain in the school transition program through age 21, her job coach was confident that other jobs could be found for her. He emphasized that Kara would require continued supports from employers, co-workers, and job coaches in order for her to succeed. Kara's parents also gave SSA permission to contact her former supervisor. Although he did not have time to give a lot of details, what he shared with SSA helped further explain Kara's limitations in the workplace.

The second level of appeal, which is a hearing before an ALJ, has a reversal rate of 60%.

This additional information on Kara's work behavior was submitted and she received a favorable determination at the reconsideration level.

Related resources available online:

The two previous briefs in this series, *Supplemental Security Income: A Bridge to Work* and *Supplemental Security Income: So You Have Decided to Apply*, are available online at *http://www.ncset.org/publications/default.asp#parent*

Also of interest:

The Appeals Process, an electronic factsheet on the SSA Web site: *http://www.ssa.gov/pubs/10041.html*

Your Right to Representation, an electronic factsheet on the SSA Web site: *http://www.ssa.gov/pubs/10075.html*

Advocacy Skills and the Social Security Administration, a Work Incentive and Transition Network factsheet in *pdf format: http://www.vcu.edu/rrtcweb/witn/factsheet1.pdf*

For other materials developed by theWork Incentive Transition Network visit: *http://www.vcu.edu/rrtcweb/witn/ssi.htm*

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Example 3: Hearing

Example 3: Hearing

Marci was denied SSI benefits. When she and her family went through the first level of appeal (reconsideration) they didn't understand that they could add more information to her file. Marci was denied benefits again because her file didn't contain information on all the supports she received in order to work. They appealed SSA's determination again. This time, with the help of an attorney, Marci and her parents provided SSA with detailed information about Marci's limitations due to her disability and the supports she needed in order to participate in the workplace.

Marci was 22 years old and had a cognitive disability. She was socially outgoing, enthusiastic, and loved helping people. Marci worked in a small office, 15 hours a week at $6 per hour and received no benefits. She wanted to increase her work hours so she could earn more money and receive vacation and health benefits. Marci's employer was willing to train Marci for more duties if she could improve her hygiene and impulsive behaviors. Marci was proud of her office job and believed she could soon work full-time and support herself.

Marci lived with her parents but was determined to be independent, work full time, and live on her own. Her parents were also working toward this goal but realized that it might take Marci quite a while to be able to manage her own place and a full-time job. Her parents were afraid that if she lost her job she might not easily find another.

Marci's parents and her job coach provided many work supports. Information about these supports was not included in her initial SSI application; thus she was denied benefits. Her job coach regularly supported Marci and her employer, and would likely be required for long-term support. When the family went through the first step of the appeals process, they did not know that they should describe these supports or add more information to Marci's file. They assumed many of the supports provided to Marci were understood by the SSA representative, given her type of disability. Since SSA did not receive complete information, Marci received a denial at the first level of the appeals process.

The family then prepared for the next step of the appeals process (a hearing) by choosing an experienced attorney who understood SSI disability issues. He was realistic with Marci and talked to her about her difficulties due to her disability as well as her strengths. He realized that Marci was very talkative about all the things that she could do, and that her parents and service providers had never been successful in getting her to discuss work problems or her disability. The attorney questioned Marci's parents on the supports provided to her so that she could work. He went over the SSI file and requested additional information on job accommodations from both employer and job coach. He learned that grooming issues, appropriate communication, and transportation were still issues for Marci, and that she receives ongoing support in these areas.

The attorney also discovered that Marci got angry and left work early if her supervisor attempted to correct her work and speak to her directly about her work behaviors. To address this behavior, Marci and her job coach worked on anger management strategies. He documented that Marci's behaviors and limited work

Example 3: Hearing (cont.)

skills prevented her from increasing her work hours. The attorney presented all this new information to the ALJ.

Marci's job coach agreed to attend the hearing so she could provide additional explanations on some of the strategies she provided Marci and the employer.

Of those reviewed by the Appeals Council, 27% are sent back to level 2 to be reheard.

At the hearing, the ALJ reviewed the paperwork he had on file. He asked Marci's attorney many questions regarding the new information and then spoke with Marci. He listened to her describe her job duties, hours, and work goals. He then listened to the job coach describe specifically how she worked with Marci and the employer.

The judge complimented Marci on her good work attitude and goals. He closed the hearing by stating that Marci would have a written decision in a couple of weeks.

How Decisions Are Made

1. Medical Evidence

Your medical doctor, psychologist, psychiatrist, qualified speech and language pathologist, or school psychologist provide medical evidence. Evidence provided by professionals directly providing you with treatment generally carries the most weight in a decision. However, if this information is insufficient, SSA will arrange for further examination by one of the professionals you have worked with before or from a consultant hired by SSA.

2. Evidence of Functional Limitation

SSA considers how your disability keeps you from working by looking at the functioning areas. This information is gathered from you, your family members, your Individualized Education Program (IEP) records, teachers, employers, counselors, therapists, or anyone else who is familiar with your limitations or restrictions in these areas:

a. Activities of daily living
b. Social functioning
c. Difficulty maintaining concentration, persistence, or pace
d. Episodes of decompensation*

Anyone who knows the person with a disability well can write a report or attend the hearing to explain any challenges that are due to the disability. Thorough reports are very important. This can include information about all different types of support provided by family members, friends, school staff, and others.

*Decompensation is defined by an increased level of functional difficulty under stress. This could result in withdrawal from normal work activities, a decline in work performance, difficulty getting along with co-workers, or any behaviors that make it difficult to keep a job.

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You May Choose Someone to Represent You on an SSI Appeal

Representation can be provided at all levels of appeal. This person may be an advocate, parent, attorney, or other individual who is familiar with SSI and your specific situation. SSI will work with this person just as they would with you. This person can come **with** you or go **for** you to any interview, conference, or hearing. They may help get information from your SSI file such as medical records or statements from teachers or other support specialists. You can even have more than one representative if you choose. Your representative(s) cannot charge or collect a fee from you without first getting written approval from SSA.

Once you choose a representative, you must inform SSA **in writing** as soon as possible. To do this, you can get a Form SSA-1696-U4, *Appointment of Representative*, from any Social Security office.

You must give the name of the person you are appointing and sign your name. If the person is not an attorney, he/she must, in writing, give his/her name; state that he/she accepts the appointment; and sign the form.

Your representative will receive a copy of any decision made on your disability claim and assist in determining whether an appeal would be to your advantage. Your representative can:

- **Review** what is in your file.
- **Identify** and obtain missing information about your disability.
- **Request** a reconsideration, hearing, or Appeals Council review for you.
- **Help** you and any witnesses prepare for an appeals hearing.

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